

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: **XTL, INC.,** : **Chapter 11**  
: **XTL, PA, INC.** :  
: **Debtors** : **Bky. No. 19-14844 ELF**  
: : **JOINTLY ADMINISTERED**

## ORDER CONFIRMING CHAPTER 11 PLAN

**AND NOW, upon consideration of the Debtors' First Amended Joint Chapter 11 Plan ("the Plan"),**

AND, the Plan having been transmitted to creditors,

AND, after a hearing on confirmation held on **October 7, 2020**,

AND, at the hearing, the plan proponents and interested appearing parties having agreed upon certain modificationS of Plan,,

AND, the court having found that the proposed modifications are a non-material modification of the Plan,<sup>1</sup>

AND, the court having found that the requirements for confirmation set forth in 11 U.S.C. §1129(a) have been satisfied,

It is therefore **ORDERED** that:

1. The Plan, as **MODIFIED** by the terms of this Order as set forth below, is **CONFIRMED**.
2. Notwithstanding anything to the contrary in the Plan, all creditors' rights of setoff and recoupment are preserved, including, without limitation any rights of setoff and recoupment

<sup>1</sup> If confirmation is otherwise warranted, the terms of a plan can be modified by the order of confirmation. See In re Brewery Park Associates, L.P., 2011 WL 1980289, at \*4 n.4 (Bankr. E.D. Pa. Apr. 29, 2011).

held by the PALCB, and the injunctions referenced in Article 8 of the Plan shall not enjoin the valid exercise of such rights of setoff and recoupment of any creditor.

3. Section 8.7(iv) of the Plan is hereby stricken.
4. Nothing herein or in the Plan (including the substantive consolidation of the Debtors), shall in any way affect the rights of the parties pursuant to that certain assumed executory Contract no. 20050207 (as extended or modified) between Debtors and the PALCB and, in particular, (i) the contractual right of PALCB to set-off for inventory claims against receivables due to Debtors under that Contract and (ii) the monies currently being setoff by the PALCB represent what the PALCB believes to be the outstanding "cure" amount which would be due and owing by the Debtors upon assumption and assignment of Contract no. 20050207 (as extended or modified) between Debtors and the PALCB. Moreover, as proffered by the Debtors at the Confirmation Hearing, the ordinary course of business between the PALCB and the Debtors provides a delay of several weeks between invoicing by the Debtors and payment by the PALCB, and said delay in payment, along with the projected revenues of the Reorganized Debtor, provides adequate assurance to the continued ability of the Debtors to fulfil their obligations under the Contract.
5. This Confirmation Order is and shall be deemed to be a separate Confirmation Order with respect to each of the Debtors in each Debtor's separate Chapter 11 Case. The Clerk of Bankruptcy Court is directed to file and docket this Confirmation Order in each Debtor's Chapter 11 Case.
6. The stay provided by Bankruptcy Rule 3020(e) shall not apply to this Confirmation Order.



Date: October 13, 2020

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ERIC L. FRANK  
U.S. BANKRUPTCY JUDGE